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September 11, 2015

Police Chief Frank McCoy
Oceanside Police Department
3855 Mission Avenue
Oceanside, CA 92054

Re: Fatal shooting of Mr. Daniel Pedroza on April 7, 2014 by Oceanside Police Sergeant Jeff Brandt; OPD Case No. 14-004485; DA Special Operations Case No. 14-036PS; Deputy District Attorney assigned: David T. Grapilon

Dear Chief McCoy:

We have reviewed the reports and other materials compiled by your department's Crimes of Violence Unit concerning the fatal shooting of Mr. Daniel Pedroza by Sergeant Jeff Brandt on April 7, 2014. A District Attorney Investigator responded to the scene and was briefed by your investigators. This case was presented to the District Attorney's Office for review on January 4, 2015.

Persons Involved

Mr. Daniel Pedroza was 25 years old at the time of this incident and lived in San Pedro, California.

Sergeant Jeff Brandt had been a police officer with the City of Oceanside for 21 years when this incident occurred. He was assigned to Oceanside Police Department's Harbor Unit and was in full uniform.

Summary/Officer Involved Shooting

While on patrol at 9:10 in the morning, Sergeant Brandt was flagged down by a concerned citizen reporting a man sleeping on a bench. Brandt woke the sleeping man, who was later identified as Daniel Pedroza, and Pedroza sat up on the bench. Brandt began speaking to Pedroza when Brandt saw the butt of what he thought was a taser protruding from Pedroza's right sweatshirt pocket. Brandt called for assistance on his radio. Brandt noticed Pedroza began to gaze at Brandt's gun during their conversation. Pedroza suddenly sat straight up and Brandt then recognized the object in Pedroza's pocket to be an actual gun. When Pedroza moved his right hand toward the gun, Brandt yelled, "Don't reach for that!" When Pedroza appeared to be pulling the gun out, Brandt fired three rounds at Pedroza. Despite being struck by gunfire, Pedroza stood up and fumbled with the gun in his pocket. Brandt fired again, striking Pedroza, who dropped the gun and fell to the ground. Brandt called for paramedics. Other officers arrived and began first aid. Pedroza was transported by helicopter to Scripps La Jolla Hospital where he died from his injuries.

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Sergeant Brandt's Statement

Sergeant Brandt told investigators he was on his way to attend a meeting in the Harbor Drive area when he was flagged down regarding a "homeless-looking guy" sleeping on a bench in front of a yachting business. Brandt walked to the bench and saw Mr. Pedroza lying on his side, asleep. Brandt said he woke Pedroza by tapping his foot several times. When Pedroza awoke, he sat up. Brandt asked Pedroza why he was sleeping on the bench and noticed Pedroza looking around on the ground underneath the bench. Brandt said Pedroza was wearing a hooded sweatshirt with front pockets near the waist. Brandt noticed the butt of what appeared to be a taser protruding from Pedroza's right front pocket. He described how Pedroza was about six feet away and appeared to be staring at Brandt's gun. Brandt said he felt something was not right, and called for a cover unit. Pedroza reached into his sweatshirt pocket and grabbed the object. Brandt told Pedroza, "*Don't reach for that,*" but Pedroza began to pull the object out. Brandt saw the pistol's hammer and immediately recognized it as a gun. Brandt told investigators that at that moment he thought, "*This guy's going to kill me.*" Brandt pulled his gun from his holster and fired three rapid shots. He believed all three shots hit Pedroza but Pedroza still managed to rise to his feet. He was yelling at Pedroza to, "*Get on the ground,*" but Pedroza continued to fumble with the gun in his pocket. Pedroza then turned away from Brandt, but Pedroza's hands went back into his shirt, so Brandt fired an additional round causing Pedroza to drop the gun to the ground. Brandt directed responding officers to begin first aid on Pedroza. He noticed one of the officers kick the gun away from Pedroza before starting first aid.

Citizen Witness #1

A citizen witness, herein identified as Witness #1, was walking his dogs and noticed a male sleeping on the bench near the dock. He observed an officer walk up to the man and try to wake him up by tapping the man's foot. The man woke up, started pounding on his chest, and was gasping as if he was high on drugs. Witness #1 moved further away to give the officer space when he heard the officer tell the man to take his hands out of his pockets. Witness #1 said the man continued to fumble around inside the pockets of his hooded sweatshirt and was not complying with the officer's demands. The officer fired three rounds, but the man was still fumbling inside his pockets. Witness #1 said the initial rounds did not appear to affect the man. The officer fired two more shots and the man fell off the bench and stopped moving. Witness #1 saw a handgun on the ground near the man after paramedics moved him.

Citizen Witness #2

Another citizen witness, herein identified as Witness #2, worked at an office next to the docks. He observed a man sleeping on a bench next to his office when he entered the building. Approximately twenty minutes later, Witness #2 heard Sergeant Brandt asking the man questions. Witness #2 only heard the conversation from inside his office and was not watching them. Witness #2 heard Brandt ask the man if he needed help with anything. The man declined help and said he was going fishing. Witness #2 said he could hear Brandt tell the man to keep his hands where he could see them at least three times, and told him to keep them out of his pockets. Witness #2 said Brandt asked him something similar to, "Do you have a gun?" followed by the sound of five to six gunshots. Witness #2 looked out his window but had a partially obstructed

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view. He saw Brandt had ducked down and was possibly administering first aid until other officers arrived.

Mr. Pedroza's Companion's Statement

A male was contacted the next day in a stolen vehicle parked at a gas station on North Harbor Drive. He told investigators he and Mr. Pedroza drove from San Pedro to Oceanside in a stolen 1996 blue Honda Accord. He said he and Pedroza smoked methamphetamine during the drive to Oceanside and he was aware that Pedroza was in possession of handgun. He described Pedroza's gun as a chrome colored, semiautomatic handgun with black tape wrapped around the butt and said Pedroza always had the gun with him. When asked about the bullets found in the jacket he was wearing when police contacted him, the man said that jacket wasn't his, but he found it in the Honda and put it on after Pedroza left.

Investigation

The scene was secured and the investigation into the shooting was conducted by Oceanside Police Department's Crimes of Violence Unit. All reports, crime scene photographs, crime scene reconstruction reports, audio-recorded witness interviews, communication phone calls, and radio transmissions were accessed for this review. The investigation determined that Sergeant Brandt fired five rounds at Pedroza, each one striking him. Toxicology results indicated Pedroza had both methamphetamine and marijuana in his system at the time of his death.

Pedroza was armed with a Sig Sauer semiautomatic handgun that was stolen during a residential burglary in Lakewood, California two weeks prior to the shooting. It was not loaded. The blue Honda Accord that Pedroza's companion said they drove to Oceanside was stolen in Lawndale, California approximately 24 hours prior to the shooting.

Legal Analysis

This review was conducted pursuant to the joint protocol between this office and all San Diego law enforcement agencies calling upon the District Attorney to conduct an independent assessment of the circumstances surrounding the use of deadly force.

Under California law, peace officers may use deadly force to protect themselves from the threat of death or great bodily harm and to use reasonable force in making an arrest. California Penal Code section 835a allows an officer to use reasonable force to make an arrest and to overcome resistance by a person for whom he has reasonable cause to believe has committed a public offense. That section states the officer need not retreat or end his effort to make an arrest because of that person's resistance. Penal Code section 196 declares that homicide is justifiable when committed by public officers when necessarily committed in overcoming actual resistance in the discharge of any legal duty.

Irrespective of any laws applicable to situations where peace officers use deadly force in accomplishing their duties, the law of self-defense is available to any person. Homicide is justifiable in accordance with Penal Code 197 when resisting any attempt by a person to commit great bodily injury on or kill any person.

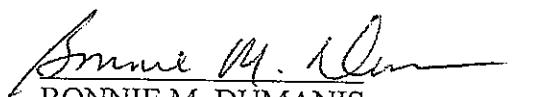
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Conclusions

During this incident, Sergeant Brandt reasonably believed Mr. Pedroza attempted to retrieve a firearm from his pocket. Brandt was not required to wait and determine if Pedroza was actually going to shoot him. In fact, had he hesitated, the situation could have ended with Brandt being seriously injured or killed. Brandt's decision to fire was reasonable under the circumstances and he bears no criminal liability for his actions.

A copy of this letter, along with the materials submitted for our review will be retained in our files.

Sincerely,


BONNIE M. DUMANIS
District Attorney
County of San Diego

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